

REMARKS

This Amendment, filed in reply to the Office Action dated October 3, 2007, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-21 are all the claims pending in the application.

I. Claim Rejections under 35 U.S.C. § 102

Claims 1-6, 12-15, and 21 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Pat. Pub. No. 2002/0159480 by Sekihata *et al.* (hereinafter "Sekihata").

Applicants submit the following arguments in traversal of the Examiner's rejection.

Sekihata discloses a system for bandwidth control (Sekihata at Abstract). Prior to transmitting subscriber data, Sekihata's system holds a subscriber packet in a buffer (Sekihata at Abstract; *see also* paragraph 0015). The system controls the reading of the subscriber packet (i.e., the transmission bandwidth) based on the difference between the line bandwidth (i.e., the bandwidth based on line characteristics) and the bandwidth set for that subscriber (i.e., the "contract" or "setting" bandwidth), and the size of the packet to be transmitted, wherein the size of the packet to be transmitted includes all the required headers (Sekihata at Abstract; *see also* paragraphs 0008-0010 and 0048).

With respect to claim 1, the Examiner alleges that Sekihata discloses all the elements recited therein. Applicants respectfully disagree. Sekihata does not disclose, at least,

configuring said rate regulator with said respective overhead criterion to charge for uncounted overhead, whereby each data packet transmitted through said rate regulator is handled as a packet that has additional bytes as determined by said overhead criterion, thereby ensuring that said regulator bandwidth does not exceed said egress port bandwidth. (Emphasis added)

In particular, in Sekihata, bandwidth control is based on the difference between the line bandwidth and the setting bandwidth, and the size of the packet to be transmitted. However, Sekihata does not disclose “ensuring that said regulator bandwidth does not exceed said egress port bandwidth,” as recited in claim 1. Sekihata does not even address the possibility that the transmission bandwidth might exceed an egress port’s bandwidth. Therefore, at least for this reason, Applicants respectfully submit that claim 1 is not disclosed by Sekihata.

Furthermore, in determining the transmission bandwidth, Sekihata’s system accounts for every byte to be transmitted, and thus, Sekihata does not disclose, at least, that “each data packet transmitted through said rate regulator is handled as a packet that has additional bytes ... thereby ensuring that said regulator bandwidth does not exceed said egress port bandwidth,” as recited in claim 1. The Examiner cites Sekihata’s accounting of header bytes for controlling transmission bandwidth as allegedly disclosing this element (*see* Office Action at page 3). However, in Sekihata, header bytes are not accounted as additional bytes. In Sekihata, each data packet transmitted includes the header bytes, and thus, such packets are not handled as packets that have additional bytes. Therefore, at least for this additional reason, Applicants respectfully submit that claim 1 is not disclosed by Sekihata.

With respect to claims 2-6, they are dependent upon claim 1. Applicants respectfully submit that such claims are patentable over Sekihata, at least by virtue of their dependency, but also for their additionally recited elements.

With respect to claim 12, Applicants respectfully submit that, for reasons analogous to those above regarding claim 1, claim 12 is not disclosed by Sekihata.

With respect to claims 13-15 and 21, they are dependent upon claim 12. Applicants respectfully submit that such claims are patentable over Sekihata, at least by virtue of their dependency, but also for their additionally recited elements.

II. Claim Rejections - 35 U.S.C. § 103 - Sekihata in view of Russell

Claims 7, 9-11, 16 and 18-20 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sekihata, in view of U.S. Pat. No. 6,496,519 to Russell *et al.* (hereinafter "Russell"). Applicants submit the following arguments in traversal of the cited art rejections.

Applicants have already demonstrated that Sekihata does not disclose all the features recited in claims 1 and 12. Applicants submit that Russell does not cure Sekihata's deficiencies.

Russell relates to the carrying of data frame traffic over a synchronous digital network. Russell at col. 1, lines 6 and 7. In particular, Russell discloses methods of using data protocols generally associated with local area networks over wide area networks. Russell's methods specifically relate to interfacing systems utilizing different data protocols and/or different data rates (Russell at col. 2, line 53 to col. 3, line 2).

The Examiner relies on Russell to allegedly teach particular elements of claims 7, 9-11, 16, and 18-20 not disclosed by Sekihata. However, Applicants respectfully submit that Sekihata, either alone or in combination with Russell, does not teach or suggest, at least,

configuring said rate regulator with said respective overhead criterion to charge for uncounted overhead, whereby each data packet transmitted through said rate regulator is handled as a packet that has additional bytes as determined by said overhead criterion, thereby ensuring that said regulator bandwidth does not exceed said egress port bandwidth.

as recited in claim 1 (emphasis added).

In particular, Russell does not even address bandwidth control, and seemingly defers bandwidth control matters to the standardized protocols it seeks to interface. At least for this reason, Applicants respectfully submit that Sekihata, either alone or in combination with Russell, does not teach or suggests all the elements of claims 1 and 12.

With respect to claims 7 and 9-11, they are dependent upon claim 1. Applicants submit that such claims are patentable over the cited art, at least by virtue of their dependency, but also for their additionally recited elements.

With respect to claims 16, 18, and 20, they are dependent upon claim 12. Applicants submit that such claims are patentable over the cited art, at least by virtue of their dependency, but also for their additionally recited elements.

III. Claim Rejections - 35 U.S.C. § 103 - Sekihata in view of Russell and Tang

Claims 8 and 17 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sekihata, in view of Russell, and in further view of U.S. Pat. No. 6,195,332 to Tang. Applicants submit the following arguments in traversal of the Examiner's rejections.

Applicants have already discussed that Sekihata, either alone or in combination with Russell, does not disclose all the features recited in claims 1 and 12. Applicants submit that Tang does not remedy the deficiencies of Sekihata and Russell.

Tang discloses a method for transmission of data packets within a communications network wherein data rate limits are calculated based on data flow paths, and data packets are transmitted based on the calculated data rate limits (Tang at col. 5, lines 33-46).

However, Tang also does not teach or suggests a system wherein "each data packet transmitted through said rate regulator is handled as a packet that has additional bytes as determined by said overhead criterion, thereby ensuring that said regulator bandwidth does not

exceed said egress port bandwidth,” as recited in claim 1. Though Tang determines a data rate for data communication, it does not disclose handling each data packet “as a packet that has additional bytes as determined by said overhead criterion, thereby ensuring that said regulator bandwidth does not exceed said egress port bandwidth.”

At least for this reason, Tang does not remedy the deficiencies of Sekihata and Russell. Therefore, Applicants respectfully submit that the cited art does not teach or suggests all the elements of claims 1 and 12.

With respect to claim 8, the claim is dependent upon claim 1. Applicants submit that claim 8 is patentable over the cited art, at least by virtue of its dependency, but also for its additionally recited elements.

With respect to claim 17, the claim is dependent upon claim 12. Applicants submit that claim 17 is patentable over the cited art, at least by virtue of its dependency, but also for its additionally recited elements.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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